
ARNOLD & PORTER LLP

Kent A. Yalowitz

Kent.Yalowitz@aporter.com
+1 212.715.1113
+1 212.715.1399 Fax
399 Park Avenue
New York, NY 10022-4690

January 12, 2015

VIA ECF AND HAND DELIVERY

Hon. George B. Daniels
United States District Judge
United States District Court
for the Southern District of New York
500 Pearl Street
New York, New York 10007-1312

Re: *Sokolow, et al. v. Palestinian Liberation Organization, et al.*
Docket No. 04-CV-397 (GBD)(RLE)

Dear Judge Daniels:

I write to request the Court's permission to use certain videos in the coming days. A DVD containing these videos is enclosed.

- **Exhibit 197, clip 1 (Marwan Barghouti on Abu Dhabi TV):** This is a clip in which Fatah and PA leader Marwan Barghouti incites a crowd of people to "continue our struggle, united," telling them, "This national unity, we will sanctify it with blood. ... [O]ur struggle has to expand and escalate, and no one will stop it! These bullets, these bullets we have to save for battle! This battle goes on! Goes on! Goes on!" It is *verbal conduct*, rather than an assertion of fact offered for the truth. Indeed, Marwan Barghouti confessed that he used television and media to communicate with the foot soldiers of the Al-Aqsa Intifada. Ex. 451, ¶ 72. If the clip is deemed a statement, it is either a *party admission* or a statement of a *co-conspirator* during the conspiracy, or independently admissible under Rule 803(3) as a statement of *motive, intent or plan*. The clip is also relevant as evidence of apparent intent to influence and coerce a civilian population.
- **Exhibit 197, clip 3 (Marwan Barghouti on ANN TV (Feb. 2001)):** This is a clip in which Marwan Barghouti gives a television interview and promises that the Intifada will intensify and escalate in order to "convince the Israelis that whoever is elected to be Prime Minister of Israel cannot promise them security." It is *verbal conduct*, rather than an assertion of fact offered for the truth. Indeed, Marwan Barghouti confessed that he

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used television and media to communicate with the foot soldiers of the Al-Aqsa Intifada. Ex. 451, ¶ 72. If the clip is deemed a statement, it is either a *party admission* or a statement of a *co-conspirator* during the conspiracy, or independently admissible under Rule 803(3) as a statement of *motive, intent or plan*. The clip is also relevant as evidence of apparent intent to influence and coerce a civilian population.

- **Exhibit 197, clip 6 (Marwan Barghouti on Abu Dhabi TV (Oct. 18, 2001)):** This is a clip in which Marwan Barghouti warns that “the rulers in Tel Aviv should know that our people will not permit its operatives and leadership to be turned into targets, while they themselves are safe.” It is *verbal conduct*, rather than an assertion of fact offered for the truth. Indeed, Marwan Barghouti confessed that he used television and media to communicate with the foot soldiers of the Al-Aqsa Intifada. Ex. 451, ¶ 72. If the clip is deemed a statement, it is either a *party admission* or a statement of a *co-conspirator* during the conspiracy, or independently admissible under Rule 803(3) as a statement of *motive, intent or plan*. The clip is also relevant as evidence of apparent intent to influence and coerce a civilian population.
- **Exhibit 197, clip 7 (Marwan Barghouti on Abu Dhabi TV):** This is a clip of Marwan Barghouti reacting to the liquidation of AAMB operative Ra’ed al-Karmi by the IDF. Barghouti warns that a response by Fatah and the AAMB “would not be late in coming” and that al-Karmi merely “obeyed the decision of the Chairman, Yassir Arafat.” It is *verbal conduct*, rather than an assertion of fact offered for the truth. Indeed, Marwan Barghouti confessed that he used television and media to communicate with the foot soldiers of the Al-Aqsa Intifada. Ex. 451, ¶ 72. If the clip is deemed a statement, it is either a *party admission* or a statement of a *co-conspirator* during the conspiracy, or independently admissible under Rule 803(3) as a statement of *motive, intent or plan*. The clip is also relevant as evidence of apparent intent to influence and coerce a civilian population.
- **Exhibit 218 (Dubai Media Broadcast, Televised Statements of Mohammed Dahlan):** This is a clip in which PA security official and Fatah leader Mohamed Dahlan admits that the PA, including himself, “protected” the important leaders of Hamas. It is evidence of the

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conspiracy between Hamas and the PA during the Intifada, as well as the PA's material support of Hamas under 2339B. It is a self-inculpatory statement and a party admission.

- **Exhibit 219 (Al Jazeera Broadcast, Televised Statements of Mohammed Dahlan):** This is a clip in which PA security official and Fatah leader Mohamed Dahlan admits that the AAMB is part of Fatah. It is evidence of plaintiffs' alter ego theory, as well as the PA's material support of the AAMB under 2339B. It is an admission.
- **Exhibit 224 (Televised Statement of Tawfiq Tirawi, Al Filistinya (July 23, 2009)):** This is a clip in which the PA's former General Intelligence Service and Fatah leader, Tawfiq Tirawi, gives a lecture at a military course for young Palestinians. At the time of the lecture, Tirawi led the PA's military academy. Among other things, he states them that "Jerusalem need thousands of martyrs" as well as "blood, action, efforts, resistance and Palestinian unity." It is not being offered for the truth, but rather to show Tirawi's state of mind and the PA's policy in favor of "blood" and "action" and terrorism. It is an admission.
- **Exhibit 228, clip 1 (BBC Documentary, "Arafat Investigated"):** This is a clip in which Yasser Arafat—from his balcony at the PA/PLO headquarters—leads a chant of people asking "Give us weapons Abu Ammar" and "We were born to carry machine guns." It is *verbal conduct*, rather than an assertion of fact offered for the truth. It is relevant to the defendants' policy of supporting terrorism. It is an admission.
- **Exhibit 228, clip 3 (BBC Documentary, "Arafat Investigated"):** This is a clip in which Fatah chief, Ata Abu Rumeilah, admits that there is no difference between Fatah and the Al Aqsa Martyrs Brigades and that the military (*i.e.*, the Al Aqsa Martyrs Brigades) was in control at the time. It is a statement of a co-conspirator.
- **Exhibit 228, clip 5 (BBC Documentary, "Arafat Investigated"):** This is a clip in which AAMB leader Zakaria Zbedi describes that AAMB starts and stops the violence based on Arafat's direction. It is evidence of PA control over the terrorism during the Intifada. It is a statement of Zbedi's

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then-existing mental condition (motive, intent or plan) under 803(3), and a statement of a co-conspirator.

- **Exhibit 235 (Televised video of Mohamed Dahlan (Al Arabiya TV, June 2007)):** This is a clip in which former PA security official and Fatah leader Mohamed Dahlan admits that much of the violence during the intifada was carried out by PA security forces and the PA, including himself, “protected and hid” important leaders of Hamas throughout the Intifada. It is evidence of PA security forces’ scope of employment, the conspiracy between Hamas and the PA, and the PA’s material support of Hamas under 2339B. It is an admission and an inculpatory statement.
- **Exhibit 239, clip 2 (Televised Interview of Yasser Arafat):** This is a clip in which Yasser Arafat admits that Anthony Zinni gave him a list of 33 individuals involved in terrorism, calling for the PA to arrest them. It demonstrates that the PA received a list of known terrorists, including at least two directly involved in the attacks in this case. It is an admission.
- **Exhibit 239, clip 3 (Televised Interview of Yasser Arafat):** This is a clip in which Yasser Arafat admits that he is in “total control.” It is an admission.
- **Exhibit 242 (News Coverage (Live), July 31, 2002 Hebrew University Bombing):** This clip is news coverage of the July 31, 2002 Hebrew University bombing. It is admissible under Rule 803(1) as a present-sense impression. An eyewitness to the events of that day has provided a declaration confirming that it is an accurate depiction of the events. Alex Stein Declaration (Ex. A hereto).
- **Exhibit 700 (PA TV Broadcast, Issa Qarake (Oct. 17, 2011)):** This is a clip in which the PA Minister of Prisoners glorifies various prisoners, including Marwan and Abdullah Barghouti, as “heroes and fighters.” It is *verbal conduct*, rather than an assertion of fact offered for the truth. If the clip is deemed a statement, it is a *party admission*. The clip is evidence of the defendants’ policy in support of terrorism.
- **Exhibit 727 (PA TV Broadcast, “Personal Encounter” with Mohamed Dahlan (Sept. 28, 2010)):** This is a clip in which former PA security

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official and Fatah leader Mohamed Dahlan glorifies the PA security employees who participated in the Intifada and admits that “we” [the PA] started the Intifada. The clip is evidence of PA security forces’ scope of employment. It is an admission and a self-inculpatory statement.

- **Exhibit 846 (Televised Interview with Mohamed Dahlan, dated Jan. 22, 2006):** This is a clip in which former PA security official and Fatah leader Mohamed Dahlan admits that the PA’s security establishment, including himself, protected Hamas leaders throughout the Intifada. It is evidence of PA security forces’ scope of employment, the conspiracy between Hamas and the PA, and the PA’s material support of Hamas under 2339B. It is an admission and a self-inculpatory statement.
- **Exhibit 928 (Al-Jazeera TV Broadcast of Interview with Jibril Rajoub (Jan. 11, 2006)):** This is a clip in which the former Head of the PA’s Preventative Security, Jibril Rajoub, admits that the PA founded the AAMB and cooperated with Hamas in their resistance efforts. The clip is evidence of PA security forces’ scope of employment, the conspiracy between Hamas and the PA, and the PA’s material support of the AAMB and Hamas. It is an admission and a self-inculpatory statement.
- **Exhibit 929 (Al-Jazeera TV Broadcast of Interview with Mamdouh Nofal (Sept. 28, 2005)):** This is a clip in which Arafat’s senior advisor, Mamdoub Nofel, admits that Arafat planned and nurtured the Intifada in order to pressure the Government of Israel to make concessions. It is an admission.

Defendants have objected to all of these exhibits on numerous grounds. DE 456. Plaintiffs respectfully request that the Court overrule these objections and grant permission to use all of these videos in the coming days.

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Respectfully,

A handwritten signature in black ink, appearing to read 'Kent A. Yalowitz', written over a circular flourish.

Kent A. Yalowitz

cc: All ECF Counsel